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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/019,992

05/06/2002

Marc Saclen

10541-930

9884

29074

7590

08/31/2007

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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/019,992

Applicant(s)

SAELEN ET AL.

Examiner

Kenneth E. Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 19-22, 25-28, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Art Unit: 3724

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-22,25-28,31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bitzel '211 in view of Fazis '273.

Bitzel shows several tool species that largely meet the claims. For example, the punch tool of figure 16 has a first cutting knife (s3) that cuts an arcuate apex as seen in the upper left part of figure 16 and also a straight section. Also shown is a second cutting knife (immediately above s3) that has a straight edge and overlaps the first cutting knife. There is also a third cutting knife (s2) for cutting another straight portion that overlaps slightly with the first cutting knife. These three knives are arguable three separate knives as set forth on the last line of the abstract and also on line 65 of column 9 and lines 38,39 of column 12, but Bitzel does not explicitly say that the process shown in figure 16 employ separate knives on subsequent cutting steps.

However, Bitzel makes it perfectly clear that the charm of his device is its versatility, and that one should be swapping a myriad of tool shapes (lines 56,57, column 7, also line 65, column 9, also lines 38,39, column 12) to obtain the desired cut shape. In particular, Bitzel states:

"Various combination of curvilinear and rectilinear surfaces in a cutout may be rapidly and smoothly cut by selection of tooling with the desired arcuate contour" (lines 20-22, column 11) and *"by substitution of one or more sets of tooling"* (lines 38,39,

Art Unit: 3724

column 12). From this it is clear that one can use Bitzel's process to cut any shape, including the arcuate apex bounded by two straight lines claimed by Applicant. The selection of appropriate tool shapes to perform the exact cut claimed by Applicant is within the realm of ordinary skill, and one can use three separate knives as discussed on lines 38,39 of column 12.

While this is not necessary, Examiner would like to show that it is known to employ three knives with the first tool having a rounded corner with two straight sides, a second tool with a straight edge and a third tool with a straight edge, as seen in Fazi's figures 2 and 2A, thus making such a tool selection with Bitzel's process even more obvious.

In regards to claims 22 and 28, the support portion is best seen in figure 1.

3. Claims 23 and 24 are allowed. Claims 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Applicant's arguments have been fully considered but they are not all persuasive. Applicant has overcome the 102 rejection by Bitzel.
Applicant argues against the 103 rejection, stating that Bitzel does not suggest swapping out tools when making a cutting. This statement is clearly incorrect, as seen

in Bitzels' last line of the abstract and also on line 65 of column 9 and lines 38,39 of column 12.

Examiner would like to make clear that Bitzel is deemed to make obvious the cutting of most any shape (not just Applicant's shape) by utilizing three or more knives. The simple selection of appropriate tooling can be handled by one of ordinary skill.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth E. Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-4:30.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kp


KENNETH E. PETERSON
PRIMARY EXAMINER